THE HON'BLE SRI JUSTICE N.V. RAMANA

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WRIT PETITION NO. 29272 of 1998

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Dated: 02.01.2006

Between:

Shaik Rahamatullah S/o Shaik Jinnah
6th Ward, Near China Maseed, Opp: RTC Complex,
Tadepalligudem, West Godavari Dist.-534 101.

..... PETITIONER

AND

1 The Managing Director, A.P.S.R.T.C.,
Musheerabad, Hyderabad and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 29272 of 1998

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondents-Corporation in considering the case of the petitioner for the post of 'Cleaner' instead of 'Trimmer' post in pursuance of the orders of this Court in Writ Petition No. 5190 of 1996, dated 14.03.1996, and for consequential direction to the respondents-Corporation to consider the case of the petitioner for the post of Trimmer under the physically handicapped quota.

The case of the petitioner, in brief, is that after the retirement of his father from the

respondent-Corporation on medical grounds, as per the circulars in force, he made several representations to the respondent-Corporation for his appointment on compassionate grounds, but as no action had been taken by the respondents-Corporation, he filed Writ Petition No.5190 of 1996, and this Court, vide order dated 14.03.1996, disposed of the same with the following direction.

> "Having regard to those circumstances, I think it appropriate to direct the respondent to consider the case of the petitioner for the post of trimmer or any other suitable post, in the light of the circulars and judgment of this Court referred to above, within four months from the date of receipt of copy of this order."

Pursuant to passing of said orders, the respondents-Corporation issued the impugned proceedings dated 24.06.1996 holding thus.

> "In view of the reasons stated, the petitioner is not entitled for appointment either to the post of Cleaner or any post under retired employees children quota, hence, his claim for appointment as Trimmer or any post is hereby rejected."

The grievance of the petitioner is that since he is a handicapped person, he had sought appointment to the post of Trimmer, but instead of considering his case for the said post, the respondents-Corporation considered his case for the post of Cleaner, and rejected the same vide impugned proceedings, which is illegal and arbitrary. Hence, the present writ petition.

A counter affidavit is filed by the respondents-Corporation denying the allegations made by the petitioner, and it is stated that in pursuance of the directions of this Court in W.P. No. 5190 of 1996, dated 14.03.1996, the Selection Committee considered the case of the petitioner and found that he studied up to V Class, his date of birth is 01.07.1965 and he is a physically handicapped person, hence, he is not eligible for the post of Conductor as he had not passed X Class, he is not eligible for the post of Cleaner since he is over-aged, and he is not eligible for the post of Trimmer because he is a physically handicapped person suffering with "*polio residressal paralysis both lower limbs"*. Accordingly, his claim has been rejected vide proceedings dated 24.06.1996.

Heard the learned counsel for the petitioner and learned Standing Counsel for respondents-Corporation.

During the course of arguments, learned counsel for petitioner while producing a notification dated 31.03.1997, wherein it is stated that physically handicapped persons also are entitled for consideration for Trimmer post, submitted that in view of the said notification, the contention of the respondent-Corporation that since the petitioner is physically handicapped, he is not eligible for Trimmer post cannot be accepted.

As there is no proper material and circulars available on record, this Court directed the Regional Manager, APSRTC, Eluru, East Godavari District, to appear in person before this Court, and accordingly, the Regional Manager appeared before this Court.

Learned Standing Counsel for A.P.S.R.T.C., submitted that the case of the petitioner cannot be considered because the circulars, which were issued earlier, were rescinded by Circular No.P1/684(5)/95-PO(IV), dated 27.02.1998. However, in accordance with scheme of compassionate appointments under bread-winner scheme, the sons of the employees, who died in harness, are entitled to be considered for compassionate appointment to the post of Cleaner/Khalasi against the 30% of sanctioned posts, subject to eligibility criteria provided that none of the family members is already employed in the Corporation through open recruitment or otherwise. He also produced a Circular
No. PD-112/1987, dated 05.10.1987, wherein the guidelines for recruitment to the posts of Helper and Cleaner/Khalasi were indicated. Guideline No. 6.1 of the said circular indicates the recruitment of employees' children, which reads thus;

6.1: Recruitment of Employees' Children:- While recruiting the children of Ex-Employees under 30% quota, the following order of preference shall be adhered to:

a. Sons of deceased employees in case the applications of children are received after one year of the death of the employee;

b. Sons of prematurely retired employees on medical grounds;

c. Sons of employees retired on superannuation and expired subsequently;

d. Sons of retired employees;

e. Sons of employees in service, who have put in a minimum of 25 years service in the Corporation.

He further submits that the case of the petitioner falls under guideline 6.1 (b), but

there are no vacancies available in the region, hence, there is no question of considering the case of the petitioner. During the course of arguments, learned Standing Counsel for APSRTC submitted that as the circulars, which were issued earlier, were rescinded by circular dated 27.02.1998, the case of the petitioner cannot be considered and there are no vacancies available in the Region as on today.

This Court by order dated 14.03.1996 in W.P. No.5190 of 1996, directed the respondents to consider the case of the petitioner for the post of Trimmer or any other suitable post and pursuant to the said directions the respondents passed impugned order dated 24.06.1996 rejecting the claim of the petitioner for the post of Trimmer on the ground that he is a physically challenged person. On perusal of the entire record and the material produced by the learned Standing Counsel for respondents-Corporation, what emerges is that there is no circular disqualifying a physically challenged person for appointment to the post of Trimmer. Hence, the rejection of the claim of the petitioner for the post of Trimmer on the sole ground that he is physically challenged is unjustified.

In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions.

The respondents-Corporation is directed to reconsider the case of the petitioner for the post of Trimmer and pass appropriate speaking order in accordance with the rules in vogue within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 02.01.2006

Tvk/Nsr